

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**RAYMOND MCKINNEY**

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**CAUSE NO. SA-18-CR-131 FB**

**DEFENDANT’S MOTION TO DISMISS INDICTMENT**

TO THE HONORABLE FRED BIERY, DISTRICT JUDGE OF THE UNITED STATES DISTRICT COURT IN THE WESTERN DISTRICT OF TEXAS:

COMES NOW Defendant Raymond McKinney, and pursuant to Federal Rule of Criminal Procedure 12(b)(3)(C) moves to dismiss the Indictment, which charges Mr. McKinney with 18:922(g), felon in possession of a firearm. In support thereof, Mr. McKinney shows the following:

**I**

On June 10, 2022 the 5th Circuit Court of Appeals vacated the conviction and sentence in this case.

Further, Mr. McKinney has previously satisfied the Imprisonment component of the original sentence which has been vacated.

WHEREFORE, for the foregoing reasons, Mr. McKinney requests that the Court dismiss the Indictment.

Respectfully submitted,

MAUREEN SCOTT FRANCO  
Federal Public Defender

/s/ ALFREDO R. VILLARREAL  
Assistant Federal Public Defender  
Western District of Texas  
727 East César E. Chávez Blvd., B-207  
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*Attorney for Defendant*

#### **CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of June, 2022, I electronically filed the foregoing with the Clerk of Courts using the CM/ECF system which will send notification of such filing to the following:

Priscilla Garcia  
Assistant U.S. Attorney  
United States Attorney's Office  
601 N.W. Loop 410, Suite 600  
San Antonio, Texas 78216

/s/ ALFREDO R. VILLAREAL  
*Attorney for Defendant*

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**ORDER**

On this day, the Court considered Defendant's Motion to Dismiss Indictment, and the Court is of the opinion that the motion should be **GRANTED**. Accordingly, it is hereby:

**ORDERED** that the Indictment in this cause is **DISMISSED**.

**SO ORDERED** on this \_\_\_\_ day of \_\_\_\_\_, 2022.

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FRED BIERY  
United States District Judge